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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,701	12/30/2003	Peter Bressler	6579-149	9213
7590	11/03/2005		EXAMINER	
Richard R Michaud The Michaud-Duffy Group LLP 306 Industrial Park Road Suite 206 Middletown, CT 06457			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 11/03/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/749,701	BRESSLER ET AL.
	Examiner Hwei-Siu C. Payer	Art Unit 3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 August 2005.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-5,8-14 and 16-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-5, 8-14 and 16-18 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## Detailed Action

In view of the Appeal Brief filed on August 9, 2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below: 

### Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Podolsky (U.S. Patent No. 5,092,041).

Podolsky discloses a shaving aid material pump comprising a reciprocating mechanism selectively operable to transfer shaving aid material (i.e. the shaving cream) from a reservoir (2) to a port (45) for dispensing to a surface being shaved, the reciprocating mechanism including a biasing mechanism (35), the reciprocating mechanism further comprising a sleeve (33), a stem (36) translating along at least a portion of a length of the sleeve (33) in a first direction to provide a pressure stroke, and the biasing mechanism (35) comprises a spring operably disposed at the sleeve (33) and operably disposed at the stem (36) to bias the stem (36) in a second direction to provide a return stroke, the pump further comprising a conduit (24) extending from the pump to the port (45), a valve (20) disposed in communication with the reservoir (2) to provide a pressure differential to facilitate the flow of the shaving aid material from the reservoir (2), and therein the valve (20) is a one-way valve that permit ambient air to enter the reservoir (2) upon operation of the pump as claimed.

3. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by EP 1 252 980.

EP '980 shows a shaving aid material pump (160H) comprising a reciprocating mechanism selectively operable to transfer shaving aid material from a reservoir (140H) to a port (i.e. the free end of stem 180, see Fig.25) for dispensing to a surface being

shaved, the reciprocating mechanism including a biasing mechanism (181), the reciprocating mechanism further comprising a sleeve (166), a stem (180) translating along at least a portion of a length of the sleeve (166) in a first direction to provide a pressure stroke, and the biasing mechanism (181) comprises a spring operably disposed at the sleeve (166) and operably disposed at the stem (180) to bias the stem (180) in a second direction to provide a return stroke, the pump further comprising a conduit (166) extending from the pump (160H) to the port (free end of 180), a valve (162H) disposed in communication with the reservoir (140H) to provide a pressure differential to facilitate the flow of the shaving aid material from the reservoir (140H), and therein the valve (162H) is a one-way valve that permit ambient air to enter the reservoir (140H) upon operation of the pump as claimed.

#### **Claims Rejection - 35 U.S.C. 103(a)**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 252 980 in view of WO 00/47374.

EP '980 reference shows a shaving apparatus comprising a reservoir (140H) for containing a non-solid shaving aid material; at least one conduit (134H) extending between the reservoir (140H) and one or more ports (i.e. the free end of stem 180, see Fig.25); a pump (160H) in fluid communication with one or both of the reservoir (140H) and the conduit (134H); the pump (160H) comprising a reciprocally operable mechanism (170,172) that includes a sleeve (166), a stem (180) translating along a length of the sleeve (166) in a first direction to provide a pressure stroke, and a spring (181) operably disposed at the sleeve (166) to bias the stem (180) in a second direction to provide a return stroke; a one-way valve (162H) disposed in fluid communication with the reservoir (140H) for providing pressure differential to facilitate the flow of the shaving aid material from the reservoir (140H) substantially as claimed.

The mere difference between the claimed invention and the EP reference resides in the type of the shaving apparatus. Specifically, the shaving apparatus of the EP reference is of a dry shaver type rather than a wet shaver type. The dry shaver comprises reciprocating inner cutters cooperating with foil type outer cutters to facilitate shaving, and the wet shaver comprises one or more razor blades that are mounted in a head assembly or mounted in a razor cartridge that is pivotably mounted in a head assembly.

WO '374 reference shows a shaving apparatus of the claimed type that comprises one or more razor blades (5) mounted in a razor cartridge (4) that is pivotally mounted in a head assembly (2).

It would have been obvious to one skilled in the art to modify the EP reference by making the shaving apparatus a wet shaver type so that the shaving apparatus can be used without the need for power source as taught by the WO reference.

### **Remarks**

1. Applicant's arguments with respect to claims 1-5, 8-14 and 16-18 have been considered but are moot in view of the new ground(s) of rejection.
2. In the Appeal Brief filed on August 9, 2005, the canceled claims 6, 7 and 15 should not be indicated as pending in the Status of Claims section. Further, these canceled claims should not be listed in the Claims Appendix section.

### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer  
October 28, 2005

*HP* *Payer*

*Hawai-Su Payer*  
*Primary Examiner*

*an*  
Allan N. Shoap  
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